

HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 1146 by Representative Landry

ADOPTION: Provides relative to intrafamily adoptions

Synopsis of Senate Amendments	
1.	Changed the procedure to oppose an intrafamily adoption from filing notice to filing a clear and written answer and opposition.
2.	Provided that the court shall determine within 21 days of the filing of an opposition if due process requires the appointment of counsel and deletes the requirement that the court hold a separate hearing on this issue.
3.	Deleted the requirement that the court hold a separate contradictory hearing on the opposition within 60 days and authorized the court to hear the opposition when it hears the petition.
4.	Changed the burden of proof regarding parental consent to the adoption.
5.	Provided in the notice that the answer and opposition shall be filed with the clerk of court.
5.	Required the court to hear the petition for intrafamily adoption within 60 days if there is no opposition or within 90 days if an opposition has been filed.

Digest of Bill as Finally Passed by Senate

Present law (Ch.C. Art.1245.1) provides that if the adoption petition seeks to terminate parental rights of a parent whose consent to the adoption is required and the parent notifies the court of his intent to oppose the adoption, the child and the parent shall each have the right to be represented by separate counsel in the adoption proceeding.

Present law further provides that upon receipt of the opposition, the court shall appoint a qualified, independent attorney to represent the child in such a proceeding. Neither the child nor anyone purporting to act on his behalf may be permitted to waive the child's right to counsel. The costs of the child's representation shall be taxed as costs of court.

Present law also provides that if the court determines that the parent is indigent and unable to employ counsel solely for that reason, an attorney shall be appointed to represent the parent. The costs of the indigent parent's representation may be taxed as court costs.

Proposed law repeals present law.

Proposed law provides a procedure for opposing an intrafamily adoption by filing an answer and opposition within 15 days of service of a petition, provides for the appointment of counsel for the child, provides a due process determination for the parent regarding the appointment of counsel, and provides for notice to all parties.

Proposed law provides that the court may require the opposing parent to pay all court costs and attorney fees if the opposition is found to be frivolous.

Present law provides that notice of an intrafamily adoption shall be issued to every parent whose consent to the adoption is required and shall state, in part, that parents have the right to hire an attorney and if they cannot afford one or free legal aid is not available, the court

will appoint an attorney for them.

Proposed law deletes present law regarding the appointment of an attorney.

Proposed law adds to the notice that if the parent does not file a written answer and opposition to the adoption within 15 days of receiving the notice, he will lose the right to object to the adoption and if the person chooses to file a written answer and opposition to the adoption that it must be filed with the clerk of court.

Proposed law provides requires the opposition to request the court to determine if you have the right appointed counsel.

Present law provides that the court shall set the hearing of the petition for adoption not less than 30 nor more 60 days after the filing of the petition.

Proposed law changes present law to require the court to hear the petition within 60 days if there is no opposition or within 90 days if there is opposition.

Present law provides that when the court refuses to grant an interlocutory or final decree of adoption it may remove the child from the petitioner and reinstate the legal custodian or appoint a custodian.

Proposed law repeals present law.

Proposed law directs the Louisiana State Law Institute to prepare comments to the provisions of proposed law.

(Amends Ch.C. Arts. 1244(A), 1245(A), 1247(B) and 1253(A); Adds Ch.C. Art. 1244.1; Repeals Ch.C. Arts. 1245.1 and 1258)